



Homeland
Security

February 3, 2011

MEMORANDUM FOR: Tony Russell, Regional Administrator
FEMA Region VI

FROM: *Tonda L. Hadley*
Tonda L. Hadley, Director
Central Regional Office

SUBJECT: *City of Slidell, Louisiana*
FEMA Disaster Number 1603-DR-LA
Public Assistance Identification Number 103-70805-00
Audit Report DD-11-08

We audited public assistance funds awarded to the City of Slidell, Louisiana (City). Our audit objective was to determine whether the City accounted for and expended Federal Emergency Management Agency (FEMA) grant funds according to federal regulations and FEMA guidelines.

The City received an award of \$45.0 million from the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), a FEMA grantee, for damages resulting from Hurricane Katrina, which occurred on August 29, 2005. The award provided 100% funding for 61 large and 55 small projects.¹ The audit covered the period August 29, 2005, to August 9, 2010, the cut-off date of our audit, and included a detailed review of 23 projects totaling \$29.2 million or 65% of the total award (see Exhibit). We also performed a limited review on 8 projects totaling \$2.0 million to determine the amounts of unused funds that should be deobligated. As of our cut-off date, the City was still working to complete the majority of its Category E (permanent work) projects. We did not review Category E projects.

We conducted this performance audit under the authority of the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

¹ Federal regulations in effect at the time of the disaster set the large project threshold at \$55,500.

We interviewed FEMA, GOHSEP, and City officials; reviewed judgmentally selected transactions (generally based on dollar value) of claimed costs; and performed other procedures considered necessary to accomplish our objective. We did not assess the adequacy of the City's internal controls applicable to grant activities because it was not necessary to accomplish our audit objective. We did, however, gain an understanding of the City's methods of accounting for disaster-related costs and its procurement policies and procedures.

RESULTS OF AUDIT

Generally, the City accounted for and expended FEMA grant funds according to federal regulations and FEMA guidelines. However, the City did not always comply with federal procurement standards; and its claim included \$472,205 of questionable costs (\$465,404 of ineligible costs and \$6,801 of unsupported costs).² The City also needs to remit \$15,362 of interest earned on advanced federal funding. In addition, FEMA should deobligate \$3,108,644 of funds and put those funds to better use.

Finding A: Contracting

The City did not always comply with federal procurement standards in awarding \$26.4 million of disaster-related contract work. The City awarded a \$400,885 non-competitive contract; did not perform a cost or price analysis on any of its procurements; and did not include the required federal provisions in most of its contracts. We questioned the non-competitive contract but did not question other contract costs because the contracts were otherwise properly awarded. Federal procurement standards at 44 CFR 13.36 require, among other things:

- Performance of procurement transactions in a manner providing full and open competition except under certain circumstances. One allowable circumstance is when there is a public exigency or emergency for the requirement that will not permit a delay resulting from competitive solicitation. (13.36(c)(1) and (d)(4)(i))
- A cost or price analysis in connection with every procurement action, including contract modifications. (13.36(f)(1))
- Subgrantees' contracts must contain specific provisions listed in 44 CFR 13.36(i).

Non-competitive Contract

The City canceled a properly procured contract totaling \$246,060 for disaster-related engineering services and, without full and open competition, awarded a new contract to the same contractor. The new contract increased allowable fees and the contractor billed \$400,885 for the project. The new contract added professional services and increased fee limitations. For example, the original contract provided for construction monitoring fees for five hourly-rate positions totaling \$79,375. The new contract eliminated the monitoring, adjusted other fees, and added construction inspection and management, resulting in increased contract costs of \$296,185. After it canceled the original contract, the City should have solicited the new services using full

² We question \$1,386 twice for different reasons. Therefore, the net amount of total questioned costs is \$470,819 (\$472,205 - \$1,386) (see footnote 3 and Exhibit).

and open competition because these services were not included in the original solicitation. Therefore, we question \$400,885 of improperly contracted costs.³

GOHSEP and City officials did not agree with this finding and stated that the second contract was not a new contract, but rather a clarification of the original contract. City officials stated the clarification was necessary because the original contract did not correctly define the services in the solicitation. We maintain that the City should have rebid the contract to allow full and open competition because other qualified contractors may have been interested in bidding on the corrected scope of work for more than double the original contract price.

Cost or Price Analyses

The City did not perform cost or price analyses on any of its procurements and, therefore, increased the likelihood that unreasonable costs and misinterpretation or errors relating to scopes of work would occur. City officials stated that, because some contracts were awarded by sealed bid, they met the requirements for price analysis but admitted they did not perform a price analysis for professional services contracts. We explained that the criteria at 44 CFR 13.36(f) require an independent estimate of contract cost or price for all procurements before the receipt of bids or proposals. Further, FEMA had previously made the City aware of this requirement in its December 2006 assessment of the City's procurement systems. In response to that assessment, the City developed a corrective action plan to address its non-compliance with the requirement. However, the City provided no evidence that it conducted a cost or price analysis before or after the implementation of the corrective action plan.

Contract Provisions

The City did not include required federal contract provisions in 15 of its 20 contracts. These provisions document the rights and responsibilities of the parties and minimize the risk of misinterpretations and disputes. FEMA also cited this requirement as deficient in its prior assessment mentioned above.

Finding B: Force Account Labor

Fringe Benefit Rate

The City's claim included \$33,374 of incorrectly calculated overtime fringe benefits. The City's standard overtime fringe benefit rate was 1.45%; however, the City used a rate of 50% for one pay period. According to 2 CFR 225, *Cost Principles for State, Local, and Indian Tribal Governments*,⁴ Appendix A, Section C.1.e, allowable costs must be consistent with policies, regulations, and procedures that apply uniformly to both federal awards and other activities. Therefore, we question \$33,374 of overstated fringe benefits.

Overtime

³ The \$400,885 includes \$1,386 questioned elsewhere in this report for different reasons—\$1,056 questioned as ineligible in Finding E and \$330 questioned as unsupported in Finding F. Therefore, the net amount of ineligible contract costs is \$399,499 (\$400,885 - \$1,386). If FEMA does not disallow the \$1,386 of costs as unsupported (Finding F) and ineligible (Finding E), it should add back the \$1,386 to costs recommended for disallowance in Recommendation 1, which relates to Finding A.

⁴ OMB Circular A-87, in effect at the time of the disaster, was relocated to 2 CFR, Part 225, on August 31, 2005.

The City's claim also included \$2,697 in unreasonable overtime costs for force account labor. The City paid employees for work in excess of 16 hours per day for extended periods of time. It is not reasonable to expect employees to physically work more than 16 hours per day for extended periods; therefore, the City's claimed costs were not reasonable and therefore not eligible. According to 2 CFR 225, Appendix A, Section C.1.a, allowable costs must be reasonable. Further, FEMA policy recognizes the need for a standard, reasonable amount of force account labor hours. The year after this disaster, FEMA issued a revision to its Recovery Policy 9525.7 (section VII.H), *Labor Costs - Emergency Work*.⁵ The revision states:

Reimbursement of labor costs for employees performing emergency work is limited to actual time worked, even when the applicant is contractually obligated to pay for 24 hour shifts. It is not reasonable for a person to work more than 48 hours continuously without an extended rest period. Therefore, FEMA will reimburse up to 24 hours for each of the first two days, and up to 16 hours for each of the following days for emergency work. All requested hours must be for actual time worked. . . .

FEMA's policy supports our conclusion that a claim for up to, but not more than, 16 hours of work per day was reasonable. Therefore, we question \$2,697 of ineligible excess overtime costs.

City officials agreed with both aspects of this finding.

Finding C: Helicopter Services

The City's claim for helicopter services included \$17,590 of ineligible costs. The City contracted for helicopter services for emergency protective measures to include support for local law enforcement. However, the contractor billed \$17,590 for identifying disaster damages and other administrative work. The \$17,590 was a duplicate cost because the City's statutory administrative allowance provides funding for these indirect costs and no other indirect costs are eligible (44 CFR 206.228(a)(2)(ii) and (b)(2)). Further, FEMA's *Public Assistance Guide* (FEMA 322, October 1999), page 41, specifically states that the cost of identifying disaster damages is an example of the type of activity the administrative allowance is intended to cover.

In addition, survey activity and administrative work were not within the project's scope and were not emergency protective measures. Therefore, we question \$17,590 as ineligible costs.

City officials stated that \$8,795 of the administrative costs were for the Mayor's attendance at meetings and media events in Mississippi. They initially stated that local media services were not available; therefore, these services facilitated them providing information to the national media that the City was back in operation as of September 12, 2005. However, City officials later stated the City was providing information that it was not safe for its citizens to return due to a lack of key services such as water, sewage, and electricity. City officials contended that the work was, therefore, eligible as an emergency protective measure.

⁵ Although the revised FEMA Policy 9525.7 was not in effect at the time of the disaster, we referred to this policy to establish a reasonable number of daily work hours.

We maintain that the \$17,590 was for ineligible administrative activities. The City provided no evidence that any of these costs were for emergency protective measures. In fact, the Mayor published a positive message regarding the availability of key services on the City's website on the same day he traveled to the media event by helicopter.

Finding D: Interest Earned

The City received a \$510,000 advance for emergency work that it completed at a cost of \$112,263. The City held the remaining balance of the advance (\$397,737) in an interest bearing account until it returned the funds to GOHSEP in July 2006. The City earned \$15,462 in interest on the fund, but had not remitted the interest earned to FEMA as of the cut-off date of our audit.

Federal regulations at 44 CFR 13.21(h)(2)(i) require subgrantees to remit any interest earned on cash advances promptly, but at least quarterly, to the federal agency, less \$100 annual allowance for administrative expenses. Therefore, the City should remit \$15,362 (\$15,462 - \$100) of interest earned to FEMA as soon as possible. GOHSEP and City officials both agreed with this finding. City officials stated that they will remit the funds promptly.

Finding E: Contract Costs

The City's claim included \$10,858 for contract costs that were ineligible because they were not allowable under the terms and conditions of the contracts. These costs included \$5,684 of overtime costs for inspection monitoring services, \$4,118 of delivery and container rental fees, and \$1,056 of charges for employee labor hours that exceeded contract limitations. The contracts' terms and conditions did not include unit prices or rates for these items or provisions for reimbursement for these types of costs. Therefore, we question \$10,858 of ineligible contract costs.

City officials disagreed with this finding and stated the costs were reasonable and necessary as a result of the disaster. They also stated the contracts were not amended to include the terms and conditions because it was not a priority at the time.

Finding F: Documentation

The City's claim included \$6,801 of unsupported contract costs. The invoices for these costs did not include supporting documentation, such as timesheets for labor and load tickets for debris hauled. Cost principles at 2 CFR 225, Appendix A, Section C.1.j, state that a cost must be adequately documented to be allowable under federal awards. Therefore, we question \$6,801 in unsupported costs.

City officials said they will request additional documentation from the contractors to support the questioned costs. We will consider any additional support the City provides during audit follow-up.

Finding G: Funds Put to Better Use

Funds Not Needed

The City completed work and claimed \$19,721,412 total costs for 18 projects, which was \$2,795,286 less than the total amount FEMA estimated and approved for the 18 projects. The City completed the majority of these projects between 2 and 4 years ago. In addition, GOHSEP reviewed these projects and reduced the City's claim by \$227,830 for ineligible or unsupported costs. We reviewed these reductions and agree with GOHSEP's actions. Therefore, FEMA should deobligate \$2,795,286 (\$2,567,456 of unneeded funds plus \$227,830 of costs disallowed by GOHSEP) and put those federal funds to better use.

According to 44 CFR 206.205(a) and (b)(1), grantees are required to make final payment on small projects when they are approved and are required to submit an accounting of eligible costs for each large project "as soon as practicable after the subgrantee has completed the approved work and requested payment." Therefore, GOHSEP should complete its reviews of all projects and submit an accounting of eligible costs to FEMA so that FEMA can perform final close-outs of the projects. Both the City and GOHSEP agreed with this finding.

Project Completion

FEMA awarded the City \$420,435 to demolish approximately 37 residential structures. The City claimed and was reimbursed \$107,077 for demolishing 17 structures before the September 30, 2009, project completion deadline. Federal regulations at 44 CFR 206.204(c) and (d) place time restrictions on project completion and set forth requirements for subgrantees to request extensions for project completion. Specifically, for Category A (debris removal), the project completion deadline is 6 months. The City did not complete the project within the extended deadline (September 2009) and, 5 years after the disaster occurred, has not requested a subsequent project extension. Because the work was incomplete after 5 years and the project completion deadline has expired, FEMA should deobligate \$313,358 (\$420,435 - \$107,077) of unused funds because the City did not complete the work by project extension deadlines.

City officials did not agree with this finding, stating that the project completion deadline was arbitrary and did not consider the state guidelines, which required notifications to property owners before demolitions can occur.

RECOMMENDATIONS

We recommend the Regional Director, FEMA Region VI:

Recommendation #1: Disallow \$399,499 of improperly contracted costs (Finding A).

Recommendation #2: Disallow \$36,071 of ineligible force account labor costs (Finding B).

Recommendation #3: Disallow \$17,590 of ineligible helicopter service costs (Finding C).

Recommendation #4: Recover \$15,362 of interest earned (Finding D).

Recommendation #5: Disallow \$10,858 of ineligible contract costs (Finding E).

Recommendation #6: Disallow \$6,801 of unsupported contract costs (Finding F).

Recommendation #7: Deobligate \$2,795,286 and put those federal funds to better use (Finding G).

Recommendation #8: Require GOHSEP to complete reviews of all large projects and submit an accounting of eligible costs to FEMA (Finding G).

Recommendation #9: Deobligate \$313,358 of unused funds estimated for work not completed by required deadlines and put those federal funds to better use (Finding G).

DISCUSSION WITH MANAGEMENT AND AUDIT FOLLOW-UP

We discussed the results of our audit with City officials during our audit and included their comments in this report, as appropriate. We also provided written summaries of our findings and recommendations in advance to FEMA, GOHSEP, and City officials and discussed them at exit conferences held with FEMA on January 20, 2011, and with GOHSEP and City officials on January 11, 2011. GOHSEP officials withheld comments except for those already included in the report. FEMA officials stated they would respond to the report after it was issued and they have had time to review additional documentation. However, FEMA officials did state that FEMA will not agree with disallowing contract costs that are reasonable, even if they are incurred using improper contracting procedures.

Please advise this office by April 4, 2011 of the actions planned or taken to implement the recommendations, including target completion dates for any planned actions. Significant contributors to this report were Paige Hamrick, Timothy Scott, and Chiquita Washington. Should you have questions concerning this report, please contact me or Paige Hamrick, Audit Manager, at (214) 436-5200.

cc: Executive Director (Acting), FEMA Louisiana Recovery Office
Audit Liaison, FEMA Louisiana Recovery Office
Audit Liaison, FEMA Region VI
Audit Liaison, FEMA (Job Code G-10-035)

**Schedule of Audited Projects
City of Slidell, Louisiana
FEMA Disaster Number 1603-DR-LA**

Project Number	Project Funding	Ineligible Costs	Unsupported Costs	Total Costs Questioned	Funds Put to Better Use	Finding
Original Audit Scope						
95	\$ 4,041,710	\$ 36,071	\$ 0	\$ 36,071	\$ 146	B, G
1138	36,239	0	0	0	0	
1700	2,920,836	5,684	0	5,684	575,424	E, G
3142	4,852,790	0	0	0	968	G
4636	288,987	0	0	0	1,310	G
6178	286,419	0	0	0	0	
6222	1,296,283	0	0	0	0	
6530	42,434	0	0	0	0	
6945	29,750	0	0	0	0	
10136	42,604	0	0	0	0	
10790	20,653	0	0	0	0	
15510	5,372,306	0	0	0	0	
15530	2,045,997	0	0	0	0	
15690	2,032,127	0	0	0	213,419	G
15880	211,418	17,590	0	17,590	0	C
16481	51,750	0	0	0	0	
16789	277,990	0	0	0	140,404	G
16875	2,701,841	401,941	330	402,271	270,184	A, E, F, G
17034	964,352	0	0	0	964,352	G
17093	323,926	4,118	6,471	10,589	5,169	E, F, G
17198	228,150	0	0	0	7,020	G
18481	420,435	0	0	0	313,358	G
19129	663,766	0	0	0	0	
Subtotals	\$29,152,763	\$465,404	\$ 6,801	\$472,205	\$2,491,754	
*		-1,056	-330	-1,386		
Net		\$464,348	\$ 6,471	\$470,819		
Projects Added to Audit Scope						
1063	184,332	\$ 0	\$ 0	0	\$ 10	G
5612	475,203	0	0	0	475,203	G
6941	807,281	0	0	0	102,860	G
9006	123,471	0	0	0	2,584	G
10385	141,480	0	0	0	5,742	G
15659	108,896	0	0	0	12,229	G
16306	84,617	0	0	0	17,609	G
18234	106,049	0	0	0	653	G
Subtotals	\$ 2,031,329	\$ 0	\$ 0	0	\$ 616,890	
Grand Totals	\$31,184,092	\$464,348	\$6,471	\$470,819	\$3,108,644	

* See footnotes 2 and 3.